

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3442

IN THE MATTER OF:

Served December 20, 1989

Application of VIDEOVUE)
INTERNATIONAL, LTD., Trading as)
VIDEOVUE TOURS for a Certificate)
of Public Convenience and Necessity)
-- Charter Operations)

Case No. AP-89-32

By application filed June 6, 1989, Videovue International, Ltd., trading as Videovue Tours (Videovue or applicant), a Maryland corporation, seeks a certificate of public convenience and necessity to transport passengers, together with mail, express, and baggage in the same vehicle as passengers, in for-hire charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia. [See Compact, Title II, Article XII, Section 1(b).]

A public hearing was held on Thursday, August 24, 1989, pursuant to Order No. 3360, served June 23, 1989, and incorporated herein by reference. Applicant presented two company witnesses and five public witnesses. Gold Line, Inc. (Gold Line), and National Coach Works, Inc., timely protested the application and presented evidence at the hearing.

SUMMARY OF EVIDENCE

Ms. Peggy Popp, general manager of Videovue, testified on behalf of applicant. Ms. Popp oversees day-to-day operations including maintenance of vehicles and applicant's charter and sales departments. Ms. Popp is experienced in charter bus operations. Videovue has engaged in passenger transportation for the past 11 years. Its offices are headquartered in Pikesville, MD, just outside Baltimore, MD. It holds authority from the Interstate Commerce Commission (ICC) and conducts charter operations pursuant to that authority. Applicant also holds authority from the Maryland Public Service Commission. It operated under a grant of WMATC temporary authority until it expired in June 1989. Applicant offers a variety of accessorial services including securing hotel accommodations and theater tickets. Videovue operates 16 buses. From three to four of its vehicles are dedicated to daily Atlantic City runs and would not be available for use in WMATC operations. Most of applicant's vehicles are considered to be in the "luxury" category. Of its 16 buses, 3 are 30-passenger executive coaches equipped with club chairs, televisions, video cassette recorders, and other amenities of luxury type equipment. One 40-passenger bus, a so-called modified executive coach, is equipped

with airline seats, tables, a large banquet area, TV and VCR monitors, and portable bar. The remaining 12 buses accommodate 47 to 49 passengers, with most of them being equipped with TV's, VCR's, and other luxury features.

Mr. Morgan Prince, operations manager for Videovue, has over 21 years experience in transportation and is responsible for overseeing the daily operations and maintenance of applicant's fleet and its safety programs. Videovue's vehicles are garaged and maintained in Howard County, MD. Major and minor repairs are handled in house by a staff of four mechanics. Vehicles are inspected daily with extensive maintenance checks performed every 5,000 miles. Applicant employs 12 full-time drivers and 19 part-time drivers. Videovue hires only experienced drivers. Road and written tests are administered as a part of driver training. Mr. Prince acknowledged that Videovue had received an unsatisfactory United States Department of Transportation (USDOT) safety rating before his employment with the company commenced. Applicant now has a satisfactory USDOT safety rating.

Applicant's balance sheet dated November 30, 1988, shows \$103,958 in current assets and \$1,327,885 in fixed and other assets after accumulated depreciation. Current liabilities are listed at \$588,281 with long-term debt of \$927,839. Videovue shows a deficit to retained earnings of \$84,277. Applicant expects to generate \$50,000 from its WMATC operations with \$40,000 in expenses. Videovue seeks permanent authority to engage in charter coach operations because it has had requests from existing clients for transportation between points in the Metropolitan District.

Mr. Mark Fisher, director of operations for the Capital Informer, testified in support of the application. The Capital Informer is a destination management company which, inter alia, arranges transportation for large conventions requiring airport transfers, local tours, transportation for special events, and shuttle movements. The Capital Informer arranges the movement of 300,000 to 500,000 passengers a year. Transportation is needed between points in the Metropolitan District. The witness testified that the Capital Informer serves a number of corporate clients who request transportation in luxury vehicles. Because the level and quality of service is of utmost importance to the clients, payment of premium prices would not present a problem. The witness expects to use vehicles from applicant's fleet two to four times a month. He has used protestants' services in the past and expects to use those services with "equal regularity" in the future. Mr. Fisher has used the executive coach offered by Gold Line but testified that Gold Line refuses to commit its luxury vehicle to a client in advance, even for an additional fee. The ability of a carrier to deliver luxury equipment is of major importance to Mr. Fisher. He considers applicant's buses to be most desirable for use by his clients. Protestants have been able to furnish the Capital Informer with equipment but not always of the quality desired and requested. It is Mr. Fisher's opinion that the demand for passenger transportation is increasing and, concomitantly, the Capital Informer seeks to grow and expand its operations. The witness supports this application because he is continually searching for more equipment availability.

Mr. Steve Sandler, a representative of Collette Tours (Collette), testified in support of the application. Collette offers fully-escorted, deluxe tours. Corporate headquarters are located in Pawtucket, RI. Collette's representatives are responsible for seeking out, inspecting, and recommending local bus companies to provide transportation for airport transfers and sightseeing tours. Mr. Sandler has recommended applicant's services to his headquarters and believes that the type of equipment that Videovue offers meets the standards of luxury that Collette demands. Mr. Sandler testified that his company generally requires transportation between points in the Metropolitan District four to five times a week during peak season (August to December and March through June) and two to three times a week during off-peak season.

Ms. Charlotte Timms arranges ground transportation for the Convention Store. The Convention Store, in operation since 1986, requires bus transportation throughout the Metropolitan District, including transportation for special events and shuttle movements. Although it ordinarily requires standard coaches, there is a need for transportation in luxury vehicles approximately three times a month, with the number of vehicles per event varying with the special needs of the client. Ms. Timms testified that luxury vehicles are limited in quantity and are difficult to secure. When questioned about price, Ms. Timms stated that she provides clients who desire luxury equipment with information on what is available in the market and lets the client decide whether they want to incur the additional expense usually associated with luxury transportation. The witness used the services of applicant under its grant of temporary authority and was satisfied with services rendered. Ms. Timms has used the services of Gold Line, but she has not used NCW's services.

Mr. Matthew Martinucci testified in support of applicant's proposal. Mr. Martinucci is the operations manager for USA Hosts, a destination management company responsible for, inter alia, arranging ground transportation for shuttle movements, parties, and tour programs. It has been in business for 30 years and has offices nationwide. The Washington, DC, office has been in operation for six years. Transportation arrangements are made for approximately 100 trips a month between points in the Metropolitan District. The witness testified that USA Hosts' business has increased over the past several years. However, available coach transportation has not kept pace with the increased demands. Mr. Martinucci has not always been able to secure the desired type of vehicles from existing carriers. On occasion he has had to substitute minibuses for full-sized coaches due to the unavailability of sufficient full-sized equipment. The witness testified that USA Hosts would use the services of Videovue if WMATC authority is awarded. He admitted that the use of standard coaches comprises seventy-five percent of its need but believes that, if more luxury coaches were available, demand for such vehicles would increase. The witness is hesitant to inform his clients of the small pool of luxury coaches now available because of his concern that such vehicles may not be available at the time the transportation is needed.

Mr. Martinucci had a request pending for transportation in executive coaches for an October convention and testified that existing carriers are not able to provide the number of luxury vehicles required. The witness has testified on behalf of numerous applicants for charter coach authority in the past because it is always seeking to improve the pool of available equipment.

The last witness to testify in support of the application was Mr. Stephen J. Fisher. Mr. Fisher was authorized to testify on behalf of the International Association of Firefighters (IAF), Local 1664, Montgomery County, MD. The IAF is an international association that hosts fund-raising events and golf tournaments. Luxury coaches are desired to transport executive members of the association to and from golf tournaments held in Prince George's and Montgomery Counties, MD, and Washington, DC. To date, there has been no need for transportation to Northern Virginia, but the possibility for such trips exists. The witness currently uses the services of applicant for its non-WMATC work. Mr. Fisher estimates that IAF will require applicant's proposed services 15 to 30 times a year. All of IAF's movements require vehicles equipped with video systems due to the association's practice of playing video tapes while in transit. IAF even has a short video that can be played during trips that last only 15 minutes. The witness tried to secure luxury equipment from existing carriers in the past but was turned down due to unavailability of the requested equipment.

Mr. Charles L. Cummings, vice-president and general manager of Gold Line, testified in opposition to the application. Gold Line holds WMATC Certificate No. 14 which authorizes, among other things, the transportation of passengers in charter operations between points in the Metropolitan District. Gold Line operates approximately 58 buses, nine of which are equipped with video systems. Gold Line operates one vehicle that it classifies as an executive coach. In addition to having video equipment, the executive coach has a microwave, ice chest, two booths, and an area to play cards. At one time, Gold Line operated nine executive coaches which were used mainly on ICC trips. Demand for the vehicles, however, did not justify the cost of keeping the executive coaches as a part of Gold Line's fleet. The witness admits that Gold Line does not currently operate European-style vehicles and testified that the company does not consider vehicles equipped with video equipment as luxury vehicles. The witness admits that requests for more luxurious equipment are becoming more frequent. In light of this trend, Gold Line plans to add vehicles that are video-equipped.

Mr. Jim Davis, director of operations for National Coach Works Inc. (NCW), also testified in opposition to the application. NCW holds WMATC Certificate No. 26 which authorizes the transportation of passengers in charter operations between points in the Metropolitan District. NCW currently operates a fleet of 13 coaches, but it does not operate any luxury vehicles. NCW is operating at a loss and opposes the entry of a new carrier in the market because it believes badly needed business would be diverted from NCW to Videovue. The witness testified that its vehicles are not completely booked and that it would be more than willing to provide transportation to those requesting service.

DISCUSSION AND CONCLUSIONS

This application is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove it is fit, willing, and able to perform properly the proposed transportation and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that applicant prove that the proposed service is required by the public convenience and necessity. Based on a review of the entire record in this case, we find that applicant has sustained the burden of proof imposed by the Compact.

Applicant is an experienced ICC carrier. It holds authority from the Maryland Public Service Commission and performed transportation between points in the Metropolitan District pursuant to a grant of WMATC temporary authority. A review of Videovue's finances reveals a thinly capitalized company with significant debt. However, applicant is a going concern with prospects for continued growth and development. The issuance of WMATC permanent authority will allow the applicant an opportunity for additional vehicle utilization and resultant improvement of its financial condition. Applicant expressed a willingness to comply with the Commission's rules and regulations and the USDOT safety regulations.

Applicant produced five public witnesses. Their testimony supports the need for additional charter coach transportation. The witnesses cumulatively testified to a responsibility for arranging charter coach transportation for thousands of passengers a month between points throughout the Metropolitan District including airport transfers, transportation to and from various tourist attractions, and day-long shuttle movements. The witnesses believe that coach service beyond what is presently authorized in the Metropolitan District is required in order to meet their needs. Inasmuch as applicant's fleet is considered to be comprised largely of luxury vehicles, the testimony of the witnesses centered on the need for luxury vehicles. All of the witnesses have a segment of their clientele who want luxury transportation and would not object to paying premium rates for such service. The witnesses generally admit that the need for service in luxury vehicles is not as great as a need for service in standard coaches. However, if luxury vehicles were made available in greater quantities, they would be inclined to promote greater use of luxury vehicles. The failure of existing carriers to provide a guarantee that luxury equipment will actually be made available has caused the witnesses to rely mainly upon standard coaches so they can make assurances to clients regarding vehicle availability.

Protestants contend that existing service is adequate to meet the needs of the public. However, it is the testimony of the supporting witnesses that the amount of equipment provided by existing carriers is insufficient to meet basic transportation needs and that there is a need for an increased number of luxury vehicles. NCW does not offer luxury coach transportation. Gold Line operates one executive coach and several vehicles with video equipment. However, it

is not willing to offer any guarantees that upgraded vehicles will be made available on a particular day and time. The witnesses who use protestants' services have not indicated that they intend to stop using the services of Gold Line and NCW if the authority sought is granted. The record shows that the metropolitan area transportation market is becoming more sophisticated with greater demands being made for luxury vehicles. The witnesses hope to meet these demands through their support of Videovue's application.

Balancing each segment of the three-part test as set forth in In Re Pan-American Bus Lines Operation (1 M.C.C. 190, 203 [1936]), we conclude that the benefits which will accrue to the public from the authorization of the proposed charter service far outweigh any detriment to existing authorized carriers and that the proposed charter service is required by the public convenience and necessity. The application will be granted except to the extent that authority is sought to transport mail and express. The record is bereft any evidence showing a public need for the transportation of mail and express and, to that extent, the application will be denied.

THEREFORE, IT IS ORDERED:

1. That Videovue International, Ltd., trading as Videovue Tours is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers, together with baggage in the same vehicle with passengers, in charter operations between points in the Metropolitan District, restricted against transportation solely within the Commonwealth of Virginia.

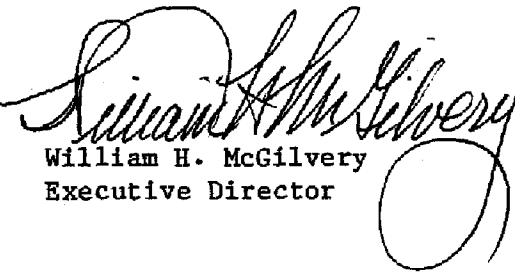
2. That Videovue International, Ltd., trading as Videovue Tours is hereby directed to file with the Commission within 30 days of the service date of this order the following: (a) three copies of its WMATC Tariff No. 1; (b) an equipment list specifying make, year, model, serial number, seating capacity, and license plate number and jurisdiction for each vehicle to be used in revenue operations; (c) evidence of ownership or a lease in conformance with Regulation No. 69 for each vehicle to be used in revenue operations; (d) a certificate of insurance in accordance with Regulation No. 62, covering all vehicles listed; and (e) an affidavit of identification of vehicles pursuant to Regulation No. 67 for which purpose WMATC No. 160 is hereby assigned.

3. That unless Videovue International, Ltd., trading as Videovue Tours complies with the requirements of the preceding paragraph within 30 days of the service date of this order or such additional time as the Commission may direct or allow, the grant of authority herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

4. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to Videovue International, Ltd., trading as Videovue Tours in the form and as worded in the Appendix to this order.

5. That the application, except to the extent granted herein, is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 160

VIDEOVUE INTERNATIONAL, LTD.
Trading as VIDEOVUE TOURS

By Order No. 3442 of the Washington Metropolitan Area Transit Commission issued December 20, 1989;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3442;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

CHARTER OPERATIONS, transporting passengers, together with baggage in the same vehicle with passengers, between points in the Metropolitan District;

RESTRICTED against transportation solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.